

AMENDED IN SENATE JUNE 20, 2000  
AMENDED IN ASSEMBLY APRIL 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

**No. 2759**

**Introduced by Committee on Governmental Organization  
(Wesson (Chair), Granlund (Vice Chair), Brewer, Briggs,  
Cardoza, Lempert, Longville, Margett, Vincent, Wiggins,  
and Wright)**

February 25, 2000

---

~~An act to amend Sections 23050 and 25512 of~~ *An act to amend Sections 23050, 23100, 23800, 23986, 25503.6, 25503.8, 25503.26, 25503.85, and 25512 of, to add Section 24048.5 to, the Business and Professions Code, relating to alcoholic beverages.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as amended, Committee on Governmental Organization. Department of Alcoholic Beverage Control: director licensees: tied-house restrictions.

(1) Under existing law, the director of the Department of Alcoholic Beverage Control is required to be a member of the Governor's Council, and entering upon the duties of the office, is required to execute an official bond to the state for \$25,000.

This bill would remove those requirements.

(2) *Existing law allows a person in possession of a stock of lawfully acquired alcoholic beverages following the*

*revocation or voluntary surrender of, or failure to renew, an alcoholic beverage license to sell that stock to licensees, as authorized by the Department of Alcoholic Beverage Control.*

*This bill would instead allow a wholesaler or manufacturer to accept the return of beer under similar circumstances and credit the retailer, as provided.*

*(3) Existing law sets forth requirements for renewal of licenses.*

*This bill would allow a wholesaler to sell to a holder of a retail license whose license has been surrendered, canceled, revoked, or indefinitely suspended, under certain circumstances.*

*(4) Under existing law, the Department of Alcoholic Beverage Control is authorized to place reasonable restrictions upon retail licensees or any licensee in the exercise of retail privileges in various situations. Existing law permits the department to place reasonable restrictions on these licensees if the department adopts conditions requested by a local governing body. This bill would permit the department in that situation to place reasonable restrictions on these licensees at the time of transfer of a license under specified circumstances.*

*(5) Existing law requires an applicant for an on-sale or off-sale license in a census tract having an undue concentration of licenses, as defined by departmental rule or regulation, to have a notice of the application published, as specified.*

*This bill instead would refer to an undue concentration of licenses, as defined by a particular statute.*

*(6) Existing provisions of the Alcoholic Beverage Control Act known as “tied-house” restrictions generally prohibit an on-sale alcoholic beverage licensee from having an ownership interest in an alcoholic beverage manufacturer. Existing law allows as an exception to those provisions a holder of no more than 8 on-sale licenses to hold not more than 16.67% of the stock of a corporation that holds beer manufacturer licenses that are located in Sacramento, Placer, El Dorado, Marin, or Napa County.*



This bill would remove El Dorado and Marin Counties, and add Contra Costa and San Joaquin Counties to the authorized locations. *This bill would also revise those provisions to refer to “beer manufacturer” instead of “holder of a beer manufacturer’s license.”*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23050 of the Business and  
2 Professions Code is amended to read:  
3 23050. There is in the State Government a  
4 Department of Alcoholic Beverage Control. The  
5 department shall be administered through a civil  
6 executive officer who shall be known as the Director of  
7 Alcoholic Beverage Control. The director shall be  
8 appointed and shall serve as provided in Section 22 of  
9 Article XX of the Constitution and shall receive an annual  
10 salary as provided for by Chapter 6 of Part 1 of Division  
11 3 of Title 2 of the Government Code.

12 SEC. 2. *Section 23100 of the Business and Professions*  
13 *Code is amended to read:*

14 ~~23100. Any person in possession of a stock of lawfully~~  
15 ~~acquired alcoholic beverages—~~(a) A wholesaler or  
16 ~~manufacturer, or any successor thereto, may accept the~~  
17 ~~return of beer purchased from that wholesaler or~~  
18 ~~manufacturer, or any successor thereto, by the holder of~~  
19 ~~a retail license following the revocation or of, suspension~~  
20 ~~of, voluntary surrender of, or failure to renew, his the~~  
21 ~~retail license may sell the stock, under supervision of the~~  
22 ~~department in such manner as the department by rule~~  
23 ~~provides, to licensees authorized to sell the alcoholic~~  
24 ~~beverages.~~

25 (b) A wholesaler or manufacturer, or any successor  
26 thereto, may credit the account of the retailer identified  
27 in subdivision (a) in an amount not to exceed the original  
28 sales price to the retailer of the returned beer, provided  
29 that the beer has been paid for in full.

1     *SEC. 3. Section 23800 of the Business and Professions*  
2     *Code is amended to read:*

3     23800. The department may place reasonable  
4     conditions upon retail licensees or upon any licensee in  
5     the exercise of retail privileges in the following situations:

6     (a) If grounds exist for the denial of an application for  
7     a license or where a protest against the issuance of a  
8     license is filed and if the department finds that those  
9     grounds may be removed by the imposition of those  
10    conditions.

11    (b) Where findings are made by the department  
12    which would justify a suspension or revocation of a  
13    license, and where the imposition of a condition is  
14    reasonably related to those findings. In the case of a  
15    suspension, the conditions may be in lieu of or in addition  
16    to the suspension.

17    (c) Where the department issues an order suspending  
18    or revoking only a portion of the privileges to be exercised  
19    under the license.

20    (d) Where findings are made by the department that  
21    the licensee has failed to correct objectionable conditions  
22    within a reasonable time after receipt of notice to make  
23    corrections given pursuant to subdivision (e) of Section  
24    24200.

25    (e) ~~Upon~~ *At the time of transfer of a license pursuant*  
26    *to Section 24071.1, 24071.2, or 24072 and upon written*  
27    notice to the licensee from the department adopting  
28    conditions requested by the local governing body, or its  
29    designated subordinate officer or agency, in whose  
30    jurisdiction the license is located. The request for  
31    conditions shall be supported by substantial evidence that  
32    the problems either on the premises or in the immediate  
33    vicinity identified by the local governing body or its  
34    designated subordinate officer or agency will be  
35    mitigated by the conditions. Upon receipt of the request  
36    for conditions, the department shall either adopt the  
37    conditions requested or notify the local governing body,  
38    or its designated subordinate officer or agency, in writing  
39    of its determination that there is not substantial evidence  
40    that the problem exists or that the conditions would not

mitigate the problems identified. The department may adopt conditions requested pursuant to this paragraph only when the request is filed within the time authorized for a local law enforcement agency to file a protest or proposed conditions pursuant to Section 23987.

*SEC. 4. Section 23986 of the Business and Professions Code is amended to read:*

23986. (a) Any applicant for an on-sale license shall cause a notice of the application, giving the name or names of the applicant and the premises where the business is to be conducted, to be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation, other than a legal or professional trade publication, in the city in which the premises are situated, or if the premises are not in a city, the publication shall be made in a newspaper of general circulation nearest the premises where the business is to be conducted. The form of the notice shall be prescribed by the department. Affidavit of publication shall be filed with the department prior to the issuance of any license. The department shall adopt rules and regulations to enforce the provisions of this section.

(b) Any applicant for an on-sale or off-sale license at a premises which is located in a census tract which has an undue concentration of licenses, as defined ~~by departmental rule or regulation in paragraph (2) or (3) of subdivision (a) of Section 23958.4,~~ shall cause a notice of the application to be published pursuant to Section 6063 of the Government Code in a newspaper of general circulation other than a legal or trade publication. ~~Such publication~~ Publication shall be made in the city in which the premises ~~is~~ *are* situated, or if the premises ~~is not~~ *are not* in a city, the publication shall be made in a newspaper of general circulation nearest the premises where the business is to be conducted. The form of the notice shall be prescribed by the department. Affidavit of publication shall be filed with the department prior to the issuance of any license. The department shall adopt rules and regulations to enforce the provisions of this subdivision.

1 SEC. 5. Section 24048.5 is added to the Business and  
2 Professions Code, to read:

3 24048.5. (a) A wholesaler may sell to the holder of a  
4 retail license whose license has been canceled pursuant  
5 to subdivision (d) of Section 24048, until notice of  
6 revocation or renewal is received from the department  
7 and is effective pursuant to subdivision (d).

8 (b) Notwithstanding any other provision of this  
9 division, a wholesaler may sell to the holder of a retail  
10 license whose license has been surrendered, canceled,  
11 revoked, or indefinitely suspended for reasons other than  
12 those specified in subdivision (d) of Section 24048, until  
13 notice is received from the department and is effective  
14 pursuant to subdivision (c). A wholesaler may not sell to  
15 a license applicant until notice of licensure is received  
16 from the department.

17 (c) For purposes of this section, notice to a wholesaler  
18 is effective at the close of business one business day after  
19 receipt of department notice.

20 (d) The department may issue notice to wholesalers  
21 by first class mail, facsimile, or other written or electronic  
22 communication. Department notice shall include, as  
23 applicable, the following:

24 (1) Licensee, applicant, or transferor name and  
25 address.

26 (2) Premises address.

27 (3) License type.

28 (4) License numbers.

29 (5) Description of license status or license status  
30 change.

31 (6) Department district designation.

32 (7) License expiration date.

33 (8) A statement clearly identifying that the retail  
34 licensee can or cannot lawfully purchase alcoholic  
35 beverages from a wholesaler.

36 (9) Any other relevant information.

37 The department may identify and disseminate to  
38 wholesalers the geographically pertinent retail license  
39 information.

1 SEC. 6. Section 25503.6 of the Business and  
2 Professions Code is amended to read:

3 25503.6. (a) Notwithstanding any other provision of  
4 this chapter, a beer manufacturer or the holder of a beer  
5 manufacturer's or winegrower's license may purchase  
6 advertising space and time from, or on behalf of, an  
7 on-sale retail licensee subject to all of the following  
8 conditions:

9 (1) The on-sale licensee is the owner, manager, agent  
10 of the owner, assignee of the owner's advertising rights,  
11 or the major tenant of the owner of any of the following:

12 (A) An outdoor stadium or a fully enclosed arena with  
13 a fixed seating capacity in excess of 10,000 seats located  
14 within a county of the eighth class, as defined in Section  
15 28029 of the Government Code.

16 (B) A fully enclosed arena with a fixed seating capacity  
17 in excess of 18,000 seats located in Orange County.

18 (C) An outdoor stadium or fully enclosed arena with  
19 a fixed seating capacity in excess of 8,500 seats located in  
20 Kern County.

21 (D) An exposition park of not less than 50 acres that  
22 includes an outdoor stadium with a fixed seating capacity  
23 in excess of 8,000 seats and a fully enclosed arena with an  
24 attendance capacity in excess of 4,500 people, located  
25 within a county of the fourth class, as defined in Section  
26 28025 of the Government Code.

27 (E) An outdoor stadium with a fixed seating capacity  
28 in excess of 10,000 seats located in Yolo County.

29 (2) The outdoor stadium or fully enclosed arena  
30 described in paragraph (1) is not owned by a community  
31 college district.

32 (3) The advertising space or time is purchased only in  
33 connection with the events to be held on the premises of  
34 the stadium or arena owned by the on-sale licensee.

35 (4) The on-sale licensee serves other brands of beer or  
36 wine in addition to the brand manufactured by the beer  
37 manufacturer or produced by the winegrower  
38 purchasing the advertising space or time.

39 (b) Any purchase of advertising space or time  
40 pursuant to subdivision (a) shall be conducted pursuant



1 to a written contract entered into by *the beer*  
2 *manufacturer or* the holder of the ~~beer manufacturer's or~~  
3 winegrower's license and the on-sale licensee.

4 (c) Any *beer manufacturer or* holder of a ~~beer~~  
5 ~~manufacturer's or~~ winegrower's license who, through  
6 coercion or other illegal means, induces a holder of a beer  
7 or wine wholesaler's license to fulfill those contractual  
8 obligations entered into pursuant to subdivision (a) or  
9 (b) shall be guilty of a misdemeanor and shall be  
10 punished by imprisonment in the county jail not  
11 exceeding six months, or by a fine in an amount equal to  
12 the entire value of the advertising space or time involved  
13 in the contract, plus ten thousand dollars (\$10,000), or by  
14 both imprisonment and fine. The person shall also be  
15 subject to license revocation pursuant to Section 24200.

16 (d) Any on-sale retail licensee, as described in  
17 subdivision (a), who solicits or coerces a holder of a beer  
18 or wine wholesaler's license to solicit a *beer manufacturer*  
19 *or* holder of a ~~beer manufacturer's or~~ winegrower's  
20 license to purchase advertising space or time pursuant to  
21 subdivision (a) or (b) shall be guilty of a misdemeanor  
22 and shall be punished by imprisonment in the county jail  
23 not exceeding six months, or by a fine in an amount equal  
24 to the entire value of the advertising space or time  
25 involved in the contract, plus ten thousand dollars  
26 (\$10,000), or by both imprisonment and fine. The person  
27 shall also be subject to license revocation pursuant to  
28 Section 24200.

29 *SEC. 7. Section 25503.8 of the Business and*  
30 *Professions Code is amended to read:*

31 25503.8. (a) Notwithstanding any other provision of  
32 this chapter, *a beer manufacturer or* the holder of a ~~beer~~  
33 ~~manufacturer's or~~ winegrower's license may purchase  
34 advertising space and time from, or on behalf of, an  
35 on-sale retail licensee if all of the following conditions are  
36 met:

37 (1) The on-sale licensee is the owner of any of the  
38 following:

39 (A) A fully enclosed auditorium or theater with a fixed  
40 seating capacity in excess of 6,000 seats, at least 60 percent



1 of the use of which is for plays or musical concerts, not  
2 including sporting events.

3 (B) A motion picture studio facility at which public  
4 tours are conducted for at least four million people per  
5 year.

6 (C) A retail, entertainment development adjacent to,  
7 and under common ownership with, a theme park,  
8 amphitheater, and motion picture production studio.

9 (D) A theme or amusement park and the adjacent  
10 retail, dining, and entertainment area located in Orange  
11 County.

12 (2) The advertising space or time is purchased only in  
13 connection with one of the following:

14 (A) In the case of a fully enclosed auditorium or  
15 theater, in connection with sponsorship of plays or  
16 musical concerts to be held on the premises of the  
17 auditorium or theater owned by the on-sale licensee.

18 (B) In the case of a motion picture studio facility, in  
19 connection with sponsorship of the public tours or special  
20 events conducted at the studio facility.

21 (C) In the case of a retail, entertainment  
22 development, in connection with sponsorship of public  
23 tours or special events conducted at the development.

24 (D) In the case of a theme or amusement park and the  
25 adjacent retail, dining, and entertainment area, located  
26 in Orange County, in connection with daily activities and  
27 events at the theme or amusement park and the adjacent  
28 retail, dining, and entertainment area.

29 (3) The on-sale licensee serves other brands of beer or  
30 wine in addition to the brand manufactured by the beer  
31 manufacturer or produced by the winegrower  
32 purchasing the advertising space or time.

33 (b) Any purchase of advertising space or time  
34 conducted pursuant to subdivision (a) shall be conducted  
35 pursuant to a written contract entered into by *the beer*  
36 *manufacturer or* the holder of the ~~beer manufacturer's or~~  
37 winegrower's license and the on-sale licensee, which  
38 contract shall not in any way involve the holder of a beer  
39 or wine wholesaler's license.

1 (c) Any *beer manufacturer* or holder of a ~~beer~~  
2 ~~manufacturer's license~~ or winegrower's license who,  
3 through coercion or other means, induces a holder of a  
4 beer or wine wholesaler's license to fulfill those  
5 contractual obligations entered into pursuant to  
6 subdivision (a) or (b) shall be guilty of a misdemeanor  
7 and shall be punished by imprisonment in the county jail  
8 not exceeding six months, or by a fine in an amount equal  
9 to the entire value of the advertising space or time  
10 involved in the contract, plus ten thousand dollars  
11 (\$10,000), or by both imprisonment and fine. The person  
12 shall also be subject to license revocation pursuant to  
13 Section 24200.

14 (d) Any on-sale retail licensee, as described in  
15 subdivision (a), who solicits or coerces a holder of a beer  
16 or wine wholesaler's license to solicit a *beer manufacturer*  
17 or holder of a ~~beer manufacturer's~~ or winegrower's  
18 license to purchase advertising space or time pursuant to  
19 subdivision (a) or (b) shall be guilty of a misdemeanor  
20 and shall be punished by imprisonment in the county jail  
21 not exceeding six months, or by a fine in an amount equal  
22 to the entire value of the advertising space or time  
23 involved in the contract, plus ten thousand dollars  
24 (\$10,000), or by both imprisonment and fine. The person  
25 shall also be subject to license revocation pursuant to  
26 Section 24200.

27 SEC. 8. Section 25503.26 of the Business and  
28 Professions Code is amended to read:

29 25503.26. (a) Notwithstanding any other provision of  
30 this chapter, a *beer manufacturer*, the holder of a ~~beer~~  
31 ~~manufacturer's~~ or winegrower's license, or a  
32 manufacturer of distilled spirits, may purchase  
33 advertising space and time from, or on behalf of, an  
34 on-sale retail licensee subject to all of the following  
35 conditions:

36 (1) The on-sale licensee is the owner, or is the lessee,  
37 or is a wholly owned subsidiary of the lessee, of an arena  
38 with a fixed seating capacity in excess of 10,000 seats, at  
39 least 60 percent of the use of which is for horseracing

1 events, and which is located within Los Angeles County,  
2 Alameda County, or San Mateo County.

3 (2) The advertising space or time is purchased only in  
4 connection with events to be held on the premises of the  
5 arena owned or leased by the on-sale licensee.

6 (3) The on-sale licensee serves other brands of beer,  
7 distilled spirits, or wine in addition to the brand  
8 manufactured by the beer manufacturer or distilled  
9 spirits manufacturer or produced by the winegrower  
10 purchasing the advertising space or time.

11 (b) Any purchase of advertising space or time  
12 pursuant to subdivision (a) shall be conducted pursuant  
13 to a written contract entered into by *the beer*  
14 *manufacturer*; the holder of the ~~beer manufacturer's or~~  
15 winegrower's license, or the manufacturer of distilled  
16 spirits, and the on-sale licensee.

17 (c) Any *beer manufacturer*, holder of a ~~beer~~  
18 ~~manufacturer's or~~ winegrower's license, or ~~any~~  
19 manufacturer of distilled spirits, who, through coercion or  
20 other illegal means, induces a holder of a beer or wine or  
21 distilled spirits wholesaler's license to fulfill the  
22 contractual obligations entered into pursuant to  
23 subdivision (a) or (b) is guilty of a misdemeanor and shall  
24 be punished by imprisonment in the county jail not  
25 exceeding six months, or by a fine in an amount equal to  
26 the entire value of the advertising space or time involved  
27 in the contract plus ten thousand dollars (\$10,000), or by  
28 both imprisonment and fine. The person shall also be  
29 subject to license revocation pursuant to Section 24200.

30 *SEC. 9. Section 25503.85 of the Business and*  
31 *Professions Code is amended to read:*

32 25503.85. (a) Notwithstanding any other provision of  
33 this chapter, *a beer manufacturer or* the holder of a  
34 distilled spirits manufacturer's license, ~~beer~~  
35 ~~manufacturer's license~~, or winegrower's license may  
36 purchase advertising space and time from, or on behalf of,  
37 an on-sale retail licensee, that shall be limited to small  
38 notices, plaques, or signs that portray partial or full  
39 sponsorship or funding of educational programs, special  
40 fundraising and promotional events, improvements in

1 capital projects, and the development of exhibits or  
2 facilities, if all of the following conditions are met:

3 (1) The on-sale licensee is a zoo or aquarium operated  
4 by a nonprofit organization that is accredited by the  
5 American Association of Zoological Parks and Aquariums.

6 (2) The advertising space or time is purchased only in  
7 connection with the sponsorship of activities that are held  
8 on the premises or grounds owned, leased, or controlled  
9 by the on-sale licensee.

10 (3) The on-sale licensee serves other brands of distilled  
11 spirits, beer, or wine within the same license category, in  
12 addition to the brand manufactured by the distilled spirits  
13 or beer manufacturer or produced by the winegrower  
14 purchasing the advertising space or time.

15 (b) Nothing in this section shall be construed to permit  
16 the purchase of billboards or bench advertisements as  
17 “advertising space.”

18 (c) Any purchase of advertising space or time  
19 pursuant to subdivision (a) shall be accomplished by a  
20 written contract entered into by *the beer manufacturer*  
21 *or* the holder of the distilled spirits manufacturer’s, ~~beer~~  
22 ~~manufacturer’s,~~ *license* or winegrower’s license and the  
23 on-sale licensee. That contract shall not in any way  
24 involve the holder of a distilled spirits wholesaler’s  
25 license, or beer and wine wholesaler’s license.

26 (d) Any *beer manufacturer or* holder of a distilled  
27 spirits manufacturer’s license, ~~beer~~ ~~manufacturer’s~~  
28 ~~license,~~ or winegrower’s license who, through coercion or  
29 other means, induces a holder of a distilled spirits  
30 wholesaler’s license or beer and wine wholesaler’s license  
31 to fulfill those contractual obligations entered into  
32 pursuant to subdivision (a) or (c) is guilty of a  
33 misdemeanor and shall be punished by imprisonment in  
34 the county jail for a period not to exceed six months, or  
35 by a fine in an amount equal to the entire value of the  
36 advertising space or time involved in the contract, plus  
37 ten thousand dollars (\$10,000), or by both imprisonment  
38 and fine. The person shall also be subject to license  
39 revocation pursuant to Section 24200.

1     *SEC. 10.* Section 25512 of the Business and Professions  
2 Code is amended to read:

3     25512. (a) Notwithstanding any other provision of  
4 this division, any licensee or officer, director, employee,  
5 or agent of a licensee that holds no more than eight  
6 on-sale licenses may also hold not more than 16.67 percent  
7 of the stock of a corporation that holds beer manufacturer  
8 licenses issued pursuant to paragraph (1) of subdivision  
9 (a) of Section 23320 that are located in Sacramento,  
10 Placer, Contra Costa, San Joaquin, or Napa County, and  
11 may serve on the board of directors and as an officer or  
12 employee of that corporate licensed beer manufacturer.

13     (b) An on-sale licensee specified in subdivision (a)  
14 shall purchase no alcoholic beverages for sale in this state  
15 other than from a licensed wholesaler or winegrower.

16     (c) In enacting this section, the Legislature finds that  
17 it is necessary and proper to require a separation between  
18 manufacturing interests, wholesale interests, and retail  
19 interests in the production and distribution of alcoholic  
20 beverages in order to prevent suppliers from dominating  
21 local markets through vertical integration and to prevent  
22 excessive sales of alcoholic beverages produced by overly  
23 aggressive marketing techniques. The Legislature  
24 further finds that the exception established by this section  
25 to the general prohibition against tied-house interests  
26 must be limited to its expressed terms so as not to  
27 undermine the general prohibition, and intends that this  
28 section be construed accordingly.